

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 13073 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil
judge ?

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KIRITKUMAR NAGARDAS SOLANKI & 1 - Petitioner(s)
Versus

GROUP GENERAL MANAGER & 2 - Respondent(s)

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Appearance :

MR NR SHAHANI for Petitioners,
MR RAJNI H MEHTA for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 03/07/2007

ORAL JUDGMENT

1. Present petitioners, being aggrieved by the oral order of termination, instead of approaching Labour Court or the Tribunal, have rushed to this Court and have secured an interim order on 21/12/2000 directing the respondents

that if the petitioner No.1 is not relieved from service, he may not be relieved.

2. The respondents, however, submitted that before the interim order dtd.21/12/2000, the present petitioner No.1 was already relieved. According to them, he does not continue in service.
3. On being asked that why the petitioners did not go to the Industrial Tribunal or Labour Court, the learned counsel for the petitioners was unable to make a positive submission except that the petitioner No.1 had worked for a long time, he was selected through a proper selection process and his termination was absolutely illegal.
4. Mr.Mehta, learned counsel for the respondents submitted that in fact, the petitioner No.1 was an employee of the contractor and was never selected as an employee with the respondents.
5. In the opinion of this Court, if there is a dispute under the Industrial Disputes Act, then, the petitioner No.1 was

required to approach the Industrial Tribunal / Labour Court or any other competent forum to decide the dispute. This Court would not allow anybody to short-circuit the entire process and would not encourage filing of such petition without exhausting alternative remedy. As the petitioners have some alternative remedy available to him, I refuse to interfere in the matter.

6. The petitioners would be entitled to approach the appropriate Government for making a Reference to the competent Court or Tribunal.
7. At this stage, Mr.Shahani, learned counsel for the petitioners submits that he be allowed to withdraw the writ application.
8. The petition stands disposed of as withdrawn with a liberty in favour of the petitioners to approach appropriate Government for making a Reference to the competent Labour Court or Industrial Tribunal.
9. It is, however, made clear that if any question of delay is raised by anybody, then the petitioners would be entitled

to say that immediately after the order of termination was issued, he approached this Court and the petition remained pending in this Court for long 7 years.

10. Rule is discharged. Interim relief, if any, is vacated. No costs.

(R.S. GARG, J.)

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